

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

MASS DYNAMICS, LLC; BOSTON VAPOR,  
LLC; LINDA AND JEFFREY VICK d/b/a VICK'S  
VAPE SHOP; JIMBUDDY'S INCORPORATED;  
and JERALD MOLLMAN d/b/a J'S VAPOR DEN,

Plaintiffs,

v.

CHARLES D. BAKER, in his official capacity as  
GOVERNOR OF THE COMMONWEALTH OF  
MASSACHUSETTS; MONICA BHAREL, M.D.,  
in her official capacity as DEPARTMENT OF  
PUBLIC HEALTH COMMISSIONER; and  
COMMONWEALTH OF MASSACHUSETTS,

Defendants.

CIVIL ACTION  
NO. 19-cv-12035-IT

**AFFIDAVIT OF JULIA E. KOBICK**

I, Julia E. Kobick, hereby declare and state the following:

1. I am an Assistant Attorney General at the Massachusetts Office of the Attorney General and am a member in good standing of the Massachusetts bar. I represent Governor Baker and Commissioner Bharel in this matter.

2. I make this declaration in support of the Defendants' Memorandum of Law in Opposition to Plaintiffs' Motion for Preliminary Injunction. Unless stated otherwise, I have personal knowledge of the facts set forth herein and am competent to testify thereto.

3. Attached as Exhibit A is a true and correct copy of N. Martin, *Why the vaping lung illness crisis is exploding now, according to Boston doctors*, BOSTON GLOBE (Sept. 17, 2019).

4. Attached as Exhibit B is a true and correct copy of B. Abbott, *“The Bells Started Going Off.” How Doctors Uncovered the Vaping Crisis*, WALL STREET J. (Sept. 23, 2019).
5. Attached as Exhibit C is a true and correct copy of J. Layden et al., *Pulmonary Illness Related to E-Cigarette Use in Illinois and Wisconsin—Preliminary Report*, NEW ENGLAND J. MEDICINE (Sept. 6, 2019), 10.1056/NEJMe1911614.
6. Attached as Exhibit D is a true and correct copy of H. Knowles & L. Sun, *What we know about the mysterious vaping-linked illness and deaths*, WASH. POST (Sept. 27, 2019).
7. Attached as Exhibit E is a true and correct copy of J. Bosman, *At School, ‘Everyone Vapes,’ and Adults Are in Crisis Mode*, N.Y. TIMES (Sept. 20, 2019).
8. Attached as Exhibit F is a true and correct copy of D. Christiani, *Vaping-Induced Lung Injury*, NEW ENGLAND J. MEDICINE (Sept. 6, 2019), 10.1056/NEJMe1912032.
9. Attached as Exhibit G is a true and correct copy of Anne Schuchat, M.D., *Written Testimony: House Committee on Oversight & Reform, Subcommittee on Economic and Consumer Policy* (Sept. 24, 2019).
10. Attached as Exhibit H is a true and correct copy of N. Martin, *38 patients now have reported to have mysterious vaping-related lung illness in Mass.*, BOSTON GLOBE (Sept. 16, 2019).
11. Attached as Exhibit I is a true and correct copy of M. Perrone, *US official expects ‘hundreds more’ cases of vaping illness*, BOSTON GLOBE (Sept. 24, 2019).
12. Attached as Exhibit J is a true and correct copy of Testimony of Norman E. Sharpless, M.D., *House Committee on Energy and Commerce, Subcommittee on Oversight and Investigations* (Sept. 25, 2019).
13. Attached as Exhibit K is a true and correct copy of S. Kaplan et al., *Juul Replaces Its C.E.O. with a Tobacco Executive*, N.Y. TIMES (Sept. 25, 2019).

14. Attached as Exhibit L is a true and correct copy of Lindsey Tucker, *Request for Approval of the Public Health Council for the Commissioner to Take Action to Address the Public Health Emergency of Vaping* (Sept. 24, 2019).

15. Attached as Exhibit M is a true and correct copy of N. Martin, *First vaping-related death reported in Mass.*, BOSTON GLOBE (Oct. 7, 2019).

16. Attached as Exhibit N is a true and correct copy of Charles D. Baker, *Governor's Declaration of Emergency* (Sept. 24, 2019).

17. Attached as Exhibit O is a true and correct copy of Monica Bharel, MD, MPH, *Order of the Commissioner of Public Health Pursuant to the Governor's September 24, 2019 Declaration of a Public Health Emergency* (Sept. 24, 2019).

18. Attached as Exhibit P is a true and correct copy of Transcript of Emergency Meeting of the Public Health Council (Sept. 24, 2019).

19. Attached as Exhibit Q is a true and correct copy of Monica Bharel, MD, MPH, *Order of the Commissioner of Public Health Pursuant to the Governor's September 24, 2019 Declaration of a Public Health Emergency (Temporary Ban on Sale or Display of Vaping Products)* (Sept. 24, 2019).

20. Attached as Exhibit R is a true and correct copy of Monica Bharel, MD, MPH, Memorandum to Local Boards of Health re: Implementation of DPH order regarding vaping products (Sept. 24, 2019).

21. Attached as Exhibit S is a true and correct copy of Monica Bharel, MD, MPH, Letter to Providers (Sept. 24, 2019).

22. Attached as Exhibit T is a true and correct copy of Monica Bharel, MD, MPH, *Order of the Commissioner of Public Health Pursuant to the Governor's September 24, 2019 Declaration of a Public Health Emergency* (Oct. 3, 2019) ("Implementation Order").

23. Attached as Exhibit U is a true and correct copy of CDC, *Outbreak of Lung Injury Associated with E-Cigarette Use, or Vaping* (Oct. 10, 2019).
24. Attached as Exhibit V is a true and correct copy of D. Grady, *Vaping-Related Illnesses Climb to 805, C.D.C. Says*, N.Y. TIMES (Sept. 26, 2019).
25. Attached as Exhibit W is a true and correct copy of CDC, *Characteristics of a Multistate Outbreak of Lung Injury Associated with E-cigarette Use, or Vaping—United States, 2019*, MORBIDITY AND MORTALITY WEEKLY REPORT, Vol. 68, p. 2 (Sept. 27, 2019).
26. Attached as Exhibit X is a true and correct copy of D. Grady, *Lung Damage from Vaping Resembles Chemical Burns, Report Says*, N.Y. TIMES (Oct. 2, 2019).
27. Attached as Exhibit Y is a true and correct copy of Y. Butt et al., *Pathology of Vaping-Associated Lung Injury*, NEW ENGLAND J. MEDICINE (Oct. 2, 2019).
28. Attached as Exhibit Z is a true and correct copy of S. Papamichael, *E-Liquid Guide: Ingredients, Shelf Life, Nic Strengths and More*, Vaping360.com (Aug. 2, 2018).
29. Attached as Exhibit AA is a true and correct copy of an Order in *Mister E-Liquid LLC v. Governor Gretchen Whitmer*, No. 1:19-cv-00786-RJJ-RSK (W.D. Mich. Sept. 30, 2019).
30. Attached as Exhibit BB is a true and correct copy of W. Bicknell & D. Walsh, Massachusetts Dept. of Public Health, *The First ‘Red Tide’ in Recorded Massachusetts History: Managing an Acute and Unexpected Public Health Emergency*, in PROCEEDINGS OF THE FIRST INTERNATIONAL CONFERENCE ON TOXIC DINOFLAGELLATE BLOOMS 456 (V. LoCicero, ed. 1974).
31. Attached as Exhibit CC is a true and correct copy of DPH, *Department of Public Health Reports First Death from Vaping-Associated Lung Disease to US Centers for Disease Control and Prevention* (Oct. 7, 2019).
32. Attached as Exhibit DD is a true and correct copy of the Affidavit of Catherine M. Brown.

33. Attached as Exhibit EE is a true and correct copy of J. Maloney, *U.S. Army Is Treating Two Soldiers for Vaping-Related Lung Illness*, WALL STREET JOURNAL (Oct. 9, 2019).

34. Attached as Exhibit FF is a true and correct copy of the Affidavit of Ronald O'Connor.

35. Attached as Exhibit GG is a true and correct copy of the Affidavit of Alicia Casey, M.D., submitted in *Vapor Technology Ass'n v. Baker*, No. 1:19-cv-12048-IT (D. Mass.).

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this 11th day of October, 2019.

  
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Julia E. Kobick  
Assistant Attorney General

**CERTIFICATE OF SERVICE**

I hereby certify that the above affidavit, which I filed electronically through the Court's electronic case filing system on October 11, 2019, will be sent electronically to all parties registered on the Court's electronic filing system.

A handwritten signature in cursive script, reading "Julia E. Kobick".

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Julia E. Kobick  
Assistant Attorney General